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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,852	03/09/2001	David W. Piermattei	4690-1	7812

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 10/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/802,852

Applicant(s)

PIERMATTEI, DAVID W.

Examiner

Michael J Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 10, line 9, provides for “a contact portion”. Claims 11 and 12 also recite the “contact portion” terminology. Claim 14 recites the terminology “a closed edge”, and “the edge”. This terminology is not supported in the specification. Claimed subject matter must use the same terminology as is used in the specification.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “contact portion” recited in claims 10-12 and the “closed edge” recited in claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

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3. Claims 1 is objected to because lines 6-7 read, "for placing one or more body portions".

Because human body portions may not be claimed, the examiner suggests changing this to --adapted for placing one or more body portions--.

4. Claim 10 is objected to because line 22 reads, "which conforms to a part of the user's body". The examiner suggests changing this to read --which is adapted to conform to a part of the user's body--.

5. Claim 16 is objected to because line 2 reads, "for conforming to the user's body". The examiner suggests changing this to --is adapted to conform to the user's body--.

6. Claim 18 is objected to because of the following informalities: line 1 of the claim reads, "portion ncludes an". The examiner suggests changing "ncludes" to --includes--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 16 recites the limitation "said article" in line 1 of the claim. There is insufficient antecedent basis for this limitation in the claim. The examiner suggests changing this to --said desired article--.

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9. Claim 17 recites the limitation "said article" in line 1 of the claim. There is insufficient antecedent basis for this limitation in the claim. The examiner suggests changing this to --said desired article--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 6, 8, 10-12, 14, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Monk (U.S. Patent No. 3,837,190). With respect to claim 1, Monk discloses a device comprising an extended post (18), having at least one aperture running transversely there through (38), and that the post (18) operatively connected to a shoulder (12), whereby when the device is affixed to a desired article (32) having: an interior side and exterior side facing toward an interior volume defined substantially by the desired article (32), the interior volume for placing one or ~~more~~⁹ objects therein, and an exterior side facing substantially away from the interior volume, wherein the shoulder (12) is positioned on the interior side, and the extended post (18) includes at least an outwardly extending portion that extends outwardly from the exterior side. Monk also discloses a first portion, connecting between at least a portion of the shoulder (12) and the outwardly extending portion (18), wherein the user of the device can reversibly attach different items (26) to the device by inserting for each of the different items (26) an attachment (40) in the aperture provided in the outwardly extending portion (18).

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11. With respect to claim 6, Monk discloses that the post (18) and the shoulder (12) are connected to each other at a 90-degree angle.

12. With respect to claim 8, Monk discloses that the post (18) and the shoulder (12) are integral with each other (Col. 3, line 26).

13. With respect to claim 10, Monk discloses a device for attaching one or more items thereto comprising an extended post (18) having a length and at least one aperture (38) running transversely of the length, a shoulder (12) having first (end with post 18) and second (end with post 20) opposed surfaces and being operatively connected to the post (18), wherein the post (18) includes a portion that extends outwardly from at least the first (top) surface and the aperture (38) is on the outwardly extending portion of the post (18). Monk also discloses a contact portion (lower portion of post, top portion of shoulder) for contacting a desired article (32) so that the device is supported on the desired article (32) and wherein the desired article (32) supports the device when the contact portion includes a portion of the length (18) extending through the desired article (32) wherein the article supports the device regardless of an orientation of the desired article about the length, and the contact portion includes at least one portion of the second surface such that a portion of the desired article is secured between the portion of the first surface and the portion of the second surface. Furthermore, Monk discloses that a user may reversibly attach different items (26) to the device by inserting for each of the different items (26) a corresponding attachment (40) in the aperture and that the desired article (32) is portable with the user and includes at least a portion that is adapted to conform to at least a part of the user's body contacting the desired article (32), for example, if the user were to grip the desired article (32).

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14. With respect to claim 11, Monk discloses the contact portion to include a portion of the length (18) extending through the desired article (32) wherein the article (32) supports the device regardless of an orientation of the desired article (32) about the length.

15. With respect to claim 12, Monk discloses the contact portion includes at least one portion of the second surface such that a portion of the desired article is secured between the portion of the first surface and the portion of the second surface.

16. With respect to claim 14, Monk discloses a closed edge (edge of shoulder 12) surrounding the first surface, and that at least a majority of the edge contacts the desired article (32) when the desired article (32) supports the device.

17. With respect to claim 16, Monk discloses the desired article (32) to include a flexible portion adapted to conform to the user's body.

18. With respect to claim 17, Monk discloses that the desired article (32) includes at least one extent that is greater than a largest extent of the shoulder (shown in figure 1).

19. With respect to claim 18, Monk discloses that the first portion includes an extent of the post (18) extending through the desired (32) article such that the device is supported on the desired article (32) independently of a orientation of the extent of the post (18) relative to the desired article (32).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monk in view of Heller (U.S. Patent No. 1,552,156). Monk recites of the limitations of claims 1 and 10 respectively, above, and further discloses a washer (50) that fits over the post for securing the device to the desired article. However, Monk does not disclose the desired article to be selected from the group consisting of a garment, a belt, a purse, and luggage.

Heller teaches a belt plate with an attachment that may be used to hold keys (page 2, line 3). Heller discloses the belt plate to affix to a desired article such that the shoulder (14) is positioned on an interior side of the desired article and the extended post (13) is extended to an exterior side of the desired article. Heller also discloses the desired article to be a belt, for the purpose allowing attached items to be carried in a pocket of the users clothing (page 2, lines 3-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Monk as taught by Heller for the purpose of allowing attached items to be carried in a pocket of the user.

21. Claims 3, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monk in view of Wu (U.S. Patent No. 5,363,680). Monk recites all of the limitations from claim 1 above, but with respect to claim 3, does not disclose the post and the shoulder to be threadedly connected to each other.

Wu teaches a structure for a key chain in which a post (20, 21, 22, 23) is threadedly connected to a shoulder (10) for the purpose of allowing the post to be screwed into a plurality of main bodies (column 1, lines 44-46). Therefore, it would have been obvious to one of ordinary

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skill art at the time of the invention to modify Monk as taught by Wu in order to allow the post to be attached to a plurality of different shoulders.

22. With respect to claim 4, Monk does not disclose the post have only one aperture there through. Wu teaches the post to have only one aperture, for the purpose of allowing only one key ring to be attached to the post (see Figures 1, 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Monk as taught by Wu for the purpose of allowing only one attachment to the post.

23. With respect to claim 7, Monk does not disclose that the post and the shoulder are connected to each other with a ball and socket connection. Wu teaches the use of a ball (231) and socket (201) connection for the purpose of allowing quick and easy removal/assembly of the post (23) from the shoulder (20) (column 2, lines 16-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Monk as taught by Wu in order to permit quick assembly and removal of the post from the shoulder.

24. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monk in view of Budreck (U.S. Patent No. 2,975,497). Monk recites all the limitations of claim 1 above, but does not disclose that at least one aperture is double counter sunk hole.

Budreck teaches a key ring holder with at least one double counter sunk hole (48) for key chain clearance purposes (column 3, lines 64-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Monk as taught by Budreck for the purpose of facilitating easy attachment and detachment of items through the aperture.

25. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monk in view of Nielson et al. (U.S. Patent No. 6,026,515). Monk recites all of the limitations of claim 1 above

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but does not disclose the shoulder to have a cavity provided therein which permits the shoulder to fit over a button.

Nielson et al. teaches a shoulder (10) to have a cavity provided therein which permits the shoulder (10) to fit over a button (21) to readily fasten and remove an article of jewelry from a garment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Monk as taught by Nielson et al. for the purpose of readily fastening and removing an article from a garment.

26. Claims 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monk in view of Brauch (U.S. Patent No. 615,474). Monk recites all of the limitations of claims 1 and 10 above, but does not disclose the desired article to include one of: jeans, a pair of pants, and an overall.

Brauch teaches a pair of suspenders comprising an extended post (k) and a shoulder (i) that extend through an aperture q in a pair of pants in order to be quickly and readily attached to and detached from the waistband of a pair of trousers (page 1, lines 16-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Monk as taught by Brauch in order to attach the device to a pair of pants.

Response to Arguments

27. Applicant's arguments with respect to claims 1, 6, 8, 9 and 10 have been considered but are moot in view of the new ground(s) of rejection. The examiner has changed the reference of the "desired article" in Monk (U.S. Patent No. 3,837,190) from the key (26) to the flexible wrapper (32). By considering the flexible wrapper of Monk (32) to be the desired article as

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claimed by the Applicant, claims 1,6, and 8 are anticipated by Monk. In addition, claim 10 as amended by the Applicant, is anticipated by Monk as described in the Office Action above. Furthermore, claim 9 is now rejected under 35 U.S.C. 103(a) as being unpatentable over Monk in view of Nielson et al.

28. In response to applicant's argument, regarding claim 2, that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Heller explicitly provides a motivation for making a combination on page 2, lines 3-5 of the disclosure.

29. Furthermore, in response to applicant's argument regarding claim 2 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

30. With respect to claims 3, 4, and 7, the Applicant argues that Wu teaches away from making the combination with Monk. However, Wu does not teach away from such a combination. Neither Wu nor Monk suggest or teach that the element taught by Wu cannot be

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combined with Monk. Furthermore, Wu provides motivation for such a combination in column 1, lines 44-46.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

31. The following reference is cited to further show the state of the art with respect to devices fastened jeans, overalls, or a pair of pants: Shipman.

32. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

mk
October 10, 2002



Anthony Knight
Supervisory Patent Examiner
Tech Center 3600